

AMENDED IN SENATE JUNE 19, 1997  
AMENDED IN ASSEMBLY MAY 27, 1997  
AMENDED IN ASSEMBLY APRIL 9, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

**ASSEMBLY BILL**

**No. 411**

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**Introduced by Assembly Members Wayne and Shelley**  
**(Coauthors: Assembly Members Bowen, Cunneen, Keeley,**  
**Knox, Kuehl, Lempert, and Scott)**  
(Coauthors: Senators Alpert, Craven, Karnette, Solis, and  
Watson)

February 20, 1997

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An act to amend Sections 115880, 115885, and 115915 of the Health and Safety Code, relating to public beaches.

LEGISLATIVE COUNSEL'S DIGEST

AB 411, as amended, Wayne. Beach sanitation: posting.

Existing law requires the State Department of Health Services to adopt regulations establishing minimum standards for the sanitation of public beaches. Violation of these regulations adopted by the department is a crime.

This bill would require these regulations to require the testing of the waters adjacent to all public beaches, as defined, for total coliform, fecal coliform, and enterococci bacteria, to establish protocols for determining the location of monitoring sites and monitoring frequency based on risks to public health, and for the posting, closing, and reopening of public beaches, and to require that public beaches be tested for total coliform,

fecal coliform, and enterococci bacteria on a weekly basis from April 1 to October 31, inclusive, of each year if certain conditions are met. By changing the definition of a crime, this bill would impose a state-mandated local program.

This bill would require local health officers to be responsible for testing waters adjacent to public beaches within their jurisdiction. This bill would require the local health officer to immediately test the waters adjacent to a public beach and to take related action in the event of a known sewage release, *and in the event of a sewage release that is known to have reached recreational waters adjacent to a public beach, would require the local health officer to immediately close those waters until it has been determined by the local health officer that the waters are in compliance with the standards.* By increasing the duties of local health officers, this bill would impose a state-mandated local program.

Existing law requires the health officer having jurisdiction of the area in which a public beach is created to close, or restrict the use of, the public beach if he or she finds any violation of the standards.

This bill would, instead, authorize the health officer to close, or restrict the use of, the public beach if he or she finds that a violation exists.

Existing law requires the department, upon investigation of a complaint, to close, or restrict the use of, any public beach if it finds that a violation exists.

This bill would, instead, authorize the department to close, or restrict the use of, a public beach if it finds that a violation exists.

Existing law requires the local health officer to post a beach with conspicuous warning signs whenever the beach fails to meet certain bacteriological standards, and it is determined that the cause of the elevated levels constitutes a public health hazard.

This bill would, in addition, require the local health officer to post a beach with conspicuous warning signs, as described, whenever the beach fails to meet the standards developed by the department established pursuant to this bill.



Existing law requires each local health officer to notify the Director of Parks and Recreation when a public beach is in violation of the sanitation standards.

This bill would, instead, require the local health officer to notify the agency responsible for the operation and maintenance of the public beach within 24 hours of any public beach posting, closure, or restriction, and would require the agency responsible for the operation and maintenance of the public beach to establish a telephone hotline and update it daily to inform the public of beach postings, closures, and restrictions. By increasing the duties of the local health officer, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 115880 of the Health and Safety  
2 Code is amended to read:  
3 115880. (a) The department shall by regulation, in  
4 consultation with local health officers and the public,  
5 establish minimum standards for the sanitation of public  
6 beaches, including, but not limited to, the removal of  
7 refuse, as it determines are reasonably necessary for the  
8 protection of the public health and safety.

(b) The regulations shall, at a minimum, do all of the following:

(1) Require the testing of the waters adjacent to all public beaches for total coliform, fecal coliform, and enterococci bacteria.

(2) Establish protective minimum standards for total coliform, fecal coliform, and enterococci bacteria.

(3) Establish protocols for all of the following:

(A) Determining monitoring site locations and monitoring frequency based on risks to public health.

(B) Making decisions regarding the posting, closing, and reopening of public beaches.

(4) Require that the waters adjacent to public beaches be tested for total coliform, fecal coliform, and enterococci bacteria on a weekly basis, or as otherwise determined by the regulations, from April 1 to October 31, inclusive, of each year if all of the following apply:

(A) The beach is visited by more than 50,000 people annually.

(B) The beach is located on an area adjacent to a storm drain that flows in the summer.

(c) The local health officer shall be responsible for testing the waters adjacent to, and coordinating the testing of, all public beaches within his or her jurisdiction.

(d) The local health officer may meet the testing requirements of this section by utilizing test results from other agencies conducting total coliform, fecal coliform, and enterococci bacteria testing of the waters under his or her jurisdiction.

(e) Any city or county may adopt standards for the sanitation of public beaches within its jurisdiction that are stricter than the standards adopted by the state department pursuant to this section.

(f) For purposes of this section, “public beach” means any public beach located within the coastal zone, as defined in Section 30103 of the Public Resources Code.

SEC. 2. Section 115885 of the Health and Safety Code is amended to read:

115885. The health officer having jurisdiction over the area in which a public beach is created shall:

1 (a) Inspect the public beach to determine whether the  
2 standards established pursuant to Section 115880 are  
3 being complied with. If the health officer finds any  
4 violation of the standards, he or she may restrict the use  
5 of, or close, the public beach or portion thereof in which  
6 the violation occurs until such time as the standard  
7 violated is complied with.

8 (b) Investigate any complaint of a person of a violation  
9 of any standard established by the department pursuant  
10 to Section 115880. If the health officer finds any violation  
11 of the standards prescribed by the department, he or she  
12 may restrict the use of, or close, the public beach or  
13 portion thereof until the time as the standard violated is  
14 complied with. If the person who made the complaint is  
15 not satisfied with the action taken by the health officer,  
16 he or she may report the violation to the department. The  
17 department shall investigate the reported violation, and,  
18 if it finds that the violation exists, it may restrict the use  
19 of or close the public beach or portion thereof until the  
20 standard violated is complied with.

21 (c) (1) Whenever a beach is posted, closed, or  
22 otherwise restricted in accordance with Section 115915,  
23 the health officer shall inform the agency responsible for  
24 the operation and maintenance of the public beach  
25 within 24 hours of the posting, closure, or restriction.

26 (2) The agency responsible for the operation and  
27 maintenance of the public beach shall establish a  
28 telephone hotline to inform the public of all beaches  
29 currently closed, posted, or otherwise restricted. The  
30 hotline shall be updated daily.

31 (d) Report any violation of the standards established  
32 pursuant to Section 115880 to the district attorney, or if  
33 the violation occurred in a city and, pursuant to Section  
34 41803.5 of the Government Code, the city attorney is  
35 authorized to prosecute misdemeanors, to the city  
36 attorney.

37 (e) In the event of a known sewage release, the local  
38 health officer shall immediately test the waters adjacent  
39 to the public beach and to take action pursuant to  
40 regulations established under Section 115880.

1     (f) *Notwithstanding any other provision of law, in the*  
2 *event of a sewage release that is known to have reached*  
3 *recreational waters adjacent to a public beach, the local*  
4 *health officer shall immediately close those waters until*  
5 *it has been determined by the local health officer that the*  
6 *waters are in compliance with the standards established*  
7 *pursuant to Section 115880.*

8     SEC. 3. Section 115915 of the Health and Safety Code  
9 is amended to read:

10    115915. (a) Whenever any beach fails to meet the  
11 bacteriological standards of Section 7958 of Title 17 of the  
12 California Code of Regulations, or any of the standards  
13 established pursuant to subdivision (b) of Section 115880,  
14 the health officer shall, at a minimum, post the beach with  
15 conspicuous warning signs to inform the public of the  
16 nature of the problem and the possibility of risk to public  
17 health.

18    (b) A warning sign shall be visible from each legal  
19 primary beach access point, as identified in the coastal  
20 access inventory prepared and updated pursuant to  
21 Section 30531 of the Public Resources Code, and any  
22 additional access points identified by the health officer.

23    SEC. 4. No reimbursement is required by this act  
24 pursuant to Section 6 of Article XIII B of the California  
25 Constitution for certain costs that may be incurred by a  
26 local agency or school district because in that regard this  
27 act creates a new crime or infraction, eliminates a crime  
28 or infraction, or changes the penalty for a crime or  
29 infraction, within the meaning of Section 17556 of the  
30 Government Code, or changes the definition of a crime  
31 within the meaning of Section 6 of Article XIII B of the  
32 California Constitution.

33    However, notwithstanding Section 17610 of the  
34 Government Code, if the Commission on State Mandates  
35 determines that this act contains other costs mandated by  
36 the state, reimbursement to local agencies and school  
37 districts for those costs shall be made pursuant to Part 7  
38 (commencing with Section 17500) of Division 4 of Title  
39 2 of the Government Code. If the statewide cost of the  
40 claim for reimbursement does not exceed one million

1 dollars (\$1,000,000), reimbursement shall be made from  
2 the State Mandates Claims Fund.  
3 Notwithstanding Section 17580 of the Government  
4 Code, unless otherwise specified, the provisions of this act  
5 shall become operative on the same date that the act  
6 takes effect pursuant to the California Constitution.

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